

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

DESIRAY J. ALLEN,)
Petitioner,)
v.) Case No. CIV 19-368-JFH-KEW
SCOTT CROW,)
Respondent.)

OPINION AND ORDER

On October 31, 2019, Petitioner's habeas corpus action pursuant to 28 U.S.C. § 2241 was transferred to this Court from the United States District Court for the Western District of Oklahoma [Dkt. No. 13]. At the time of the transfer, Petitioner was incarcerated at Oklahoma State Penitentiary, which is located in the Eastern District, and he was challenging the execution of his sentence in Custer County Case No. CF-2004-118 [Dkt. No. 6 at 1; Dkt. No. 11 at 1]. Because his § 2241 petition was a challenge to the execution of his sentence, it is properly heard in the district where he is confined. *See Haugh v. Booker*, 210 F.3d 1147, 1149 (10th Cir. 2000); *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996).

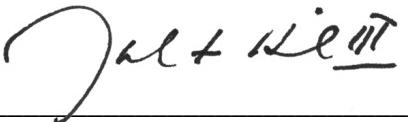
After this Court directed Respondent to file a response to the petition [Dkt. No. 15], Respondent filed a motion to dismiss the case for failure to state a claim [Dkt. No. 17]. Petitioner did not file a response to the motion.

On July 8, 2020, the Court entered an Order reassigning the case to District Judge John F. Heil, III [Dkt. No. 22]. Petitioner's copy of the Order was returned on August 20,

2020, with notations of “Refused” and to return to sender [Dkt. No. 23 at 3]. According to the Oklahoma Department of Corrections Offender website at <https://okoffender.doc.ok.gov>, Petitioner has been paroled. Because Petitioner has failed to advise the Court of his current address, as required by Local Civil Rule 5.6(a), this action is dismissed without prejudice for his failure to prosecute. *See United States ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 854-56 (10th Cir. 2005) (dismissing appeal sua sponte for failure to prosecute because appellant disappeared and failed to meet court deadlines).

THEREFORE, this action is, in all respects, DISMISSED WITHOUT PREJUDICE for failure to prosecute.

IT IS SO ORDERED this 15th day of September 2020.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE